



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 07431-00
30 March 2001

L [REDACTED] USN
[REDACTED]
[REDACTED]
[REDACTED]

Dear Lieutenant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested that your date of rank be changed from 1 January 1995 to 1 October 1996, and that your failure of selection before the Fiscal Year 01 Line Lieutenant Commander Selection Board be removed.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 March 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the Navy Personnel Command (NPC) (PERS-86) E-mail dated 13 February 2001, the memorandum for the record dated 5 March 2001, and the NPC (PERS-85) advisory opinion dated 6 March 2001 with enclosure, copies of which are attached. The Board also considered your letters dated 7 and 27 February and 25 and 26 March 2001.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the PERS-85 advisory opinion dated 6 March 2001 in finding that your date of rank should not be adjusted because you would not have rated an adjustment when you came on active duty, had you requested one. They found nothing in title 10, United States Code, section 741 precluding consideration, in determining whether to grant adjustment of date of rank, of how long an officer would be on active duty before facing a promotion board. They noted the PERS-86 E-mail dated 13 February 2001 did not state you would have been granted a date of rank adjustment to 1 October 1996, had you requested an adjustment; rather, it stated this is the best adjustment you might have been granted. Finally, they noted this E-mail stated that then Pers-26, now PERS-85, rather than PERS-86, handled the adjustment process when you came on active duty in 1996. Since they found insufficient basis to adjust your date of rank,

they had no grounds to remove your failure of selection for promotion. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

Copy to:

CAPT [REDACTED] JAGC, USNR (RET)